

UNITED STATES OF AMERICA  
UNITED STATES COAST GUARD vs.  
MERCHANT MARINER'S DOCUMENT  
Issued to: Henry L. Broadnax 428 82 8562

DECISION OF THE COMMANDANT APPEAL  
UNITED STATES COAST GUARD

2201

Henry L. BROADNAX

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 5.30-1.

By order rendered 12 January 1979, an Administrative Law Judge of the United States Coast Guard at Long Beach, California, revoked Appellant's seaman's documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleged that while holder of the document above captioned, on or about 30 November 1972, Appellant was convicted by the Superior Court, State of California, In and for the County of Stanislaus, a court of record, for violation of Section 11500 of the California Health and Safety Code, a narcotic drug law violation.

The hearing was held at Long Beach, California, on 11 January 1979.

At the hearing, Appellant elected to act as his own counsel and entered a plea of guilty to the charge and specification.

The Investigating Officer introduced in evidence one composite exhibit.

Appellant offered no evidence in defense.

At the end of the hearing, the Administrative Law Judge rendered an oral decision in which he concluded that the charge and specification had been proved by plea. He then entered an order revoking all documents issued to Appellant.

The entire decision was served on 18 January 1979. Appeal was timely filed on 8 February 1979 and perfected on the same day.

FINDINGS OF FACT

On 30 November, 1972, Appellant was the holder of Merchant Mariner's Document No. 428 82 8562 issued to him by the United States Coast Guard. He was convicted on 30 December 1972 of a

violation of California Health Safety Code, Section 11500 in the Superior Court for Stanislaus County, California, a court of record as defined by 46 CFR 5.03-15, for violation of a narcotic drug law, to wit: illegal possession of an opiate.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. It is contended that revocation is inappropriate, as others known to Appellant, are currently serving in the Merchant Marine under authority of their duly issued Coast Guard documents despite conviction of narcotic drug law offenses. Appellant also collaterally attacks his record of conviction on the grounds he was not at the time in possession of drugs and pled guilty in the California Superior Court on advice (presumably of appointed counsel).

APPEARANCE: Henry L. Broadnax, pro se.

#### OPINION

##### I

The controlling statute in this case, and the accompanying regulation, grant no discretion to the Administrative Law Judge if a charge of violation of a narcotic drug law is proved. The record before me demonstrates proof of the charge by virtue of Appellant's guilty plea, and independently, via the records of the Superior Court of Stanislaus County submitted as exhibits by the Investigating Officer. The result of such proof was fully and accurately explained to Appellant during the hearing.

##### II

Appellant's collateral attack on his criminal conviction in a court of record of the State of California can not be raised in these administrative proceedings. If Appellant wishes to contest the conviction he should pursue such relief in the appropriate forum. Proof of Appellant's conviction established the necessary element for revocation of his document as required by 46 U.S.C. 239b. Should the conviction be set aside, Appellant could then request that the order revocation be rescinded. 46 "CFR 5.03-10(b).

#### CONCLUSION

Proof of the specification and charge were established by reliable and probative evidence. Accordingly, the Administrative Law Judge properly revoked Appellant's document.

ORDER

The order of the Administrative Law Judge dated at Long Beach, California, on 12 January 1979, is AFFIRMED.

J. B. HAYES  
Admiral, U. S. Coast Guard  
Commandant

Signed at Washington, D. C., this 28th day of April 1980.